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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6296 of 2007
Date of decision: 6.12.2007

M/s Melcast Engineers Rural Industries Estate, Ramgarh Sardaran,

District Ludhina and another

...Petitioners

Versus

M/s M. J.Clayton Bushes and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. A.K.Jain, Advocate for the petitioner.

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RAJESH BINDAL, J.

The prayer made in the present petition is for issuance of a direction to the learned trial Court for deciding the application filed by the petitioner/defendant under Order 7 Rule 11 (d) of the Code of Civil Procedure (for short 'the Code") for rejection of plaint.

The claim made in the suit filed by respondents/plaintiffs is for payment of arrears of rent, not paid by the petitioners for the building taken by them on rent. It is in this suit, application under Order 7 Rule 11 of the Code was filed for rejection of the plaint being barred by time and having no cause of action. It is stated in the application that in the suit the claim is made for recovery of arrears of rent with effect from May 1, 1988 till the filing of the suit alongwith house tax. As period for which the rent is being claimed is not mentioned, the claim being time barred and there being no cause of action therein, the plaint should be rejected.

The application was filed way back in March, 2003 and remained pending with the Court. There is nothing on record to show even what efforts were made by the petitioners to get the application adjudicated

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upon.

A bare perusal of the application shows that same is an attempt by the petitioners to delay the disposal of the suit or make a ground to raise technical plea at subsequent stage. The design of the petitioners is further evident from the fact that subsequent thereto another application under Order 13 Rule 3 of the Code was filed and the present petition was sought to be filed before this court only when the evidence of the respondents was going on before the Court below. Even if part of the claim raised by the respondents/plaintiffs in the suit is beyond the period of limitation, the same would not make out a case for rejection of plaint at the threshold. At the most, at the time of final disposal of the suit, the claim which is beyond period of limitation will not be decreed. It is not denied that in the suit for arrears of rent, the claim made is upto the date of filing of the suit.

In **Saleem Bhai and others Vs. State of Maharashtra and others (2003) 1 Supreme Court Cases 557**, Hon'ble the Supreme Court opined that the application moved under Order 7 Rule 11 of the Code can be considered at any stage of the suit before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. The trial is not concluded yet. The entire efforts seems to be to delay the process of the Court.

Accordingly, I do not find any merit in the present petition and the same is dismissed.

December 06, 2007 **(Rajesh Bindal)**
Pka **Judge**